

Message Text

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R 211715Z APR 74

FM AMEMBASSY BRASILIA

TO SECSTATE WASHDC 2886

INFO AMCONSUL RECIFE

AMCONSUL RIO DE JANEIRO

AMCONSUL SAO PAULO

C O N F I D E N T I A L BRASILIA 2692

E.O. 11652: GDS

TAGS: PINT BR

SUBJ: MDB AND EX-CASSADOS

REF: BRASILIA 2478

1. IN ITS FIRST PUBLIC FOLLOW-UP TO JUSTICE MINISTER

FALCAO'S FORMAL STATEMENT ON THE MATTER, THE MDB ISSUED

APRIL 18 THE FOLLOWING DECLARATION (INFORMAL TRANSLATION):

"THE EXECUTIVE COMMITTEE OF THE NATIONAL DIRECTORATE
OF THE BRAZILIAN DEMOCRATIC MOVEMENT, IN A MEETING HELD
TODAY, DECIDED UNANIMOUSLY:

"THE BRAZILIAN DEMOCRATIC MOVEMENT, WITH REGARD TO
THE OFFICIAL NOTE OF THE MINISTER OF JUSTICE ON THE
POLITICAL PUNISHMENTS CARRIED OUT BY THE REVOLUTION,
REITERATES PREVIOUS STATEMENTS IN THE SENSE THAT ONCE
THE PENALTY HAS BEEN CARRIED OUT, (AN) UNJUST (PENALTY)
WHEN DEFENSE IS DENIED, THE CITIZEN REASSUMES HIS FULL
RIGHTS AND DUTIES.

"THE UNEXPECTED ADDITION OF NEW PENALTIES, OR MAKING
THEM PERMANENT IN NATURE, EXPLICITLY OR TACITLY, IS IN-
COMPATIBLE WITH THE RULE OF LAW AND REPRESENTS AN UNAC-
CEPTABLE STEP BACKWARD IN THE AGE-OLD AND PEACEFUL CONQUEST

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OF PENAL LAW AND CIVILIZATION.

"THE BRAZILIAN DEMOCRATIC MOVEMENT, FAITHFUL TO ITS PROGRAM, WHICH CONDEMNS SOLUTIONS OF FORCE, WILLFULLNESS, OR VIOLENCE,WHATEVER THEIR PERPETRATORS OR ORIGIN, WILL RECEIVE INTO ITS ROLLS BRAZILIAN WITH THE LEGAL STATUS FOR MEMBERSHIP, INCLUDING RUNNING FOR ELECTIVE OFFICE. THE ELECTORAL COURT IS THE CONSTITUTIONALLY APPROPRIATE ORGAN TO MAKE CITIZENS' POLITICAL PREROGATIVES RESPECTED.

"THE DUTY OF THE AUTHORITIES, SPECIFICALLY THE MINISTER OF JUSTICE DURING THE ELECTORAL PERIOD, IN WHICH THE NATION ALREADY FINDS ITSELF, IS TO GUARANTEE SECURITY AND FOMENT TRANQUILITY."

2. COMMENT: THIS IS A WELL-CRAFTED PIECE OF WORK. IMPERVIOUS ON ITS FACE TO GOVERNMENT OBJECTION, IT NEVER-THELESS SQUARELY PRESENTS A CHALLENGE TO THE ADMINISTRATION TO RESTORE TO THE EX-CASSATED THE FULL RANGE OF POLITICAL RIGHTS--I.E., RUNNING FOR OFFICE, NOT JUST VOTING. THERE ARE CURRENTLY THREE LEGAL OBSTACLES: ARTICLE 185 OF THE CONSTITUTION, A TRANSITORY PROVISION WHICH MAKES INELIGIBLE FOR EXECUTIVE OFFICES--PRESIDENT AND VICE PRESIDENT, GOVERNOR AND VICE GOVERNOR, MAYOR AND VICE MAYOR--THOSE WHOSE POLITICAL RIGHTS HAVE BEEN SUSPENDED BY PRESIDENTIAL DECREE BASED ON AN INSTITUTIONAL ACT; COMPLEMENTARY ACT NO 5 OF 1970, WHICH MAKES ALL THOSE PUNISHED BY THE REVOLUTION INELIGIBLE FOR ALL ELECTIVE OFFICES; AND THE ORGANIC LAW OF POLITICAL PARTIES, WHICH BARS PARTY MEMBERSHIP TO THOSE WHO HAVE HAD THEIR POLITICAL RIGHTS SUSPENDED BASED ON AN INSTITUTIONAL ACT.

3. THE HEART OF THE ISSUE, THEN, IS WHETHER THESE IMPEDIMENTS CAN BE REMOVED, EITHER BY JUDICIAL OR CONGRESSIONAL ACTION; AND MORE BROADLY, WHETHER THE ADMINISTRATION WILL PERMIT ANY SUCH ACTION TO OCCUR. THE MDB HAS NOW POINTED THE WAY: OUR HUNCH IS THAT THE ADMINISTRATION, ALTHOUGH ITS REAL CONCERN IS WITH ONLY A HANDFUL OF THOSE CASSATED (E.G., GOULART, KUBITSCHEK, BRIZOLA), WILL EITHER IGNORE OR DECLINE THE CHALLENGE. CRIMMINS

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